IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

WRIT PETITION NO : 6839 of 1995

Between:

Smt.Gunapati Subha Pradha W/o. G.Ram Mohan Reddy
H.No.8-2-331/2/A Road NO.3,
Banjara Hills, Hyderabad.

..... PETITIONER

AND

1 The State of Andhra Pradesh rep.by the Secretary,
Revenue Department, Secretariat, Hyderabad
2 The Mandal Revenue Officer, Golconda Mandal,
Hyderabad Dist .
3 Mumtaz Hussain S/o.late Syed Alambardar,
H.No.11-5-405 Red Hills,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction particularly in the nature of mandamus declaring the impugned proceedings of the Mandal Revenue Officer, Golconda Mandal, Hyderabad District bearing No.D/947/95, Dt.4/4/1995 as wholly without jurisdiction and ab initio void and consequently direct the respondent to refrain from evicting the petitioner.

Counsel for the Petitioner:MR.P.V.SANJAY KUMAR

Counsel for the Respondents 1 AND 2: GP FOR REVENUE

Counsel for the Respondent No.3: MR.R.PRAKASH

The Court made the following :

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ORDER:

This writ petition has been filed challenging the notice, dated 4-4-1995, issued under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905 (for short "the Act"), which reads as:

> "It is clear case of encroachment on Government land and he ha nothing to offer in support of his illegal occupation on Government land consequently the encroacher is liable to be vacated the land within (48) hours from the date of receipt of this order, otherwise steps will be taken to evict the occupant in accordance with law."

The case of the petitioner is that the land was purchased by her through a registered sale deed in the year 1979 from a person, who had undisputed title over the land and the Government of Andhra Pradesh vide memo dated 4-6-1975 had passed orders to regularize the allotment of land in favour of her vendor M/s. Jehra Alambardar in respect of the disputed land.

In the counter affidavit, these facts have been admitted. But the only ground is that when a notice was given under Section 7 of the Act; the petitioner did not come forward to put forth his case. Therefore, the Mandal Revenue Officer passed the order of eviction. Since the respondents have not disputed in their counter affidavit the title of the petitioner, therefore, in my view, there is no reason for proceeding against the petitioner in terms of the Act. Even if there is a *bona fide* dispute, even then the authorities are not supposed to proceed against the parties in terms of the Act and when there was no dispute and it is accepted by the respondents that the petitioner had title over the land, there was no scope for any interference in the rights of the petitioner under the provisions of the Act.

The writ petition is allowed. The impugned notice is set aside. No order as to costs.

28-10-2004

GJ

To

1 The State of Andhra Pradesh rep.by the Secretary
Revenue Department Secretariat, Hyderabad
2 The Mandal Revenue Officer Golconda Mandal
Hyderabad District.
3 Mumtaz Hussain S/o.late Syed Alambardar
H.No.11-5-405 Red Hills, Hyderabad.

4 Two C.Cs. to the Government Pleader for Revenue, High Court of A.P., Hyderabad.(OUT)

5 Two C.D. copies.